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Directive 93-8: Taxable Sales of Copying Machines and Related Items

ISSUE: When are retail sales of copying machines, related supplies, photocopies and service contracts subject to sales tax?

DIRECTIVE:

Copying Machines. Retail sales of copying machines are subject to sales tax.
Supplies. The retail sale of copying machine supplies such as paper, toner and ink are exempt if the photocopies produced from these ingredient or component materials will be sold. See G.L. c. 64H, § 6(r). Retail sales of supplies that do not become an ingredient or component part of tangible personal property to be sold are exempt only if they are consumed and used directly and exclusively in an industrial plant in the actual manufacture of tangible personal property to be sold. See G.L. c. 64H, § 6(s).

Photocopies. Retail sales of photocopies are subject to sales tax.
Service Contracts. Generally, when the sales price of a service contract is separately stated from the sales price of the equipment and the purchase of the contract is optional, the purchase of the service contract is not subject to sales tax. The cost of a mandatory service contract which the buyer must purchase as part of the sale of the copying machine is included in the taxable sale price of the machine. See 830 CMR 64H.1.1(5), for information regarding taxation of service contracts and replacement parts.

DISCUSSION OF LAW:

General Laws Chapter 64H, § 2, imposes a tax upon sales at retail in the commonwealth by any vendor of tangible personal property or telecommunications services unless specifically exempt. The definition of "sales" includes leases and rentals. G.L. c. 64H, § 1.

General Laws Chapter 64H, § 6(r), exempts from taxation sales of materials, tools and fuel which become an ingredient or component part of tangible personal property to be sold.

EXAMPLES

1. A copying machine is leased to a convenience store. The store buys an optional service contract (the sales price of the contract is separately stated from the sales/lease price of the copier) and supplies for the machine. The store makes the copying machine available to self-service customers and also makes copies for customers.

The lease of the copying machine to the convenience store is taxable as a sale of tangible personal property since no statutory exemption applies. The sale of the optional service contract with a separately stated sales price is not taxable. Supplies purchased for use in this copying machine are taxable, unless they become an ingredient or component part of the tangible personal property to be sold. Therefore, only supplies such as paper, toner and ink, which become part of the photocopies to be sold, are exempt from taxation. The convenience store vendor may purchase such supplies tax free upon presentation to its vendor of a properly completed ST-12. Sales of the photocopies are taxable.

2. A copying machine is purchased by a packaging business. Customers bring in tangible personal property and documents to be packaged for shipment. The business makes the copying machine available to self-service customers and also makes copies for customers.

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As in Example 1, above, the sale of the copying machine to the packaging business is taxable, and sales of supplies for this machine are also generally taxable unless they become an ingredient or component part of the photocopies sold. Sales of the photocopies are taxable.

3. An insurance agent buys a copying machine for use in her office. She also buys supplies for the machine. The photocopies made on the machine are for the agent's business purposes only; the machine is not available to the public and the photocopies produced are not sold. As in Examples 1 and 2, above, the sale of the copying machine is taxable. Sales of all supplies bought for this machine are also subject to tax. Under the facts presented, none of the supplies becomes an ingredient or component part of tangible personal property to be sold.

Conclusion Retail sales of copying machines are taxable unless a specific exemption applies. Retail sales of copying machine supplies are also taxable unless a specific exemption applies. (When claiming an exemption, a properly executed Form ST-12 certifying that the property is being purchased for an exempt use must be presented by the purchaser to the vendor. See 830 CMR 64H.8.1(5)). Generally, retail sales of photocopies are taxable.

/s/Mitchell Adams
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Commissioner of Revenue

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